

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STATE OF OHIO,

CASE NO. 1:23 CR 381

Plaintiff,

v.

JUDGE CHARLES E. FLEMING

DAVID GOODYKOONTZ,

Defendant.

**MEMORANDUM OPINION
AND ORDER**

David Goodykoontz, acting *pro se*, filed a “Motion Notice of Removal” in this case on July 14, 2023 (ECF No. 1), attempting to remove from the Cuyahoga County Court of Common Pleas two state criminal cases brought against him. *See State of Ohio v. Goodykoontz*, Nos. CR-19-641800-A and CR-20-647818-A (Cuy. Cty. Ct. of Comm. Pls.). On that same date, Goodykoontz filed another “Motion Notice of Removal” in the Northern District of Ohio attempting to remove the same state criminal cases. *See State of Ohio v. Goodykoontz*, No. 1:23CR380 (“*Goodykoontz I*”). In fact, it appears that the “Motion Notice of Removal” filed in each case are copies of each other. On August 16, 2023, the Court remanded *Goodykoontz I* to the Cuyahoga County Court of Common Pleas, finding no basis for removal jurisdiction as Goodykoontz failed to allege or demonstrate circumstances in which removal of a state criminal prosecution is permitted. *See Goodykoontz I*, ECF No. 3. The Court also determined that because Goodykoontz had already been convicted in the two state criminal cases, there was no “prosecution” to remove. *Id.*

A complaint is properly dismissed as frivolous if it is duplicative of an earlier action. *Peoples v. Reno*, No. 00-1086, 2000 U.S. App. LEXIS 24779, 2000 WL 1477502, at *1 (6th Cir. Sept. 26,

2000); *see also Cummings v. Mason*, No. 1:11-cv-649, 2011 U.S. Dist. LEXIS 75474, 2011 WL 2745937, at *1 (W.D. Mich. July 13, 2011) (holding that a “complaint that merely repeats pending or previously litigated claims may be dismissed under 28 U.S.C. § 1915(e)(2)(i) as frivolous or malicious”). A duplicative suit is one in which the issues “have such an identity that a determination in one action leaves little or nothing to be determined in the other.” *Heard v. Strange*, No. 2:21-cv-10237, 2021 U.S. Dist. LEXIS 33222, 2021 WL 695052, at *1 (E.D. Mich. Feb. 23, 2021) (quoting *Smith v. S.E.C.*, 129 F. 3d 356, 361 (6th Cir. 1997)). District courts have “broad discretion in determining whether to dismiss litigation or abstain in order to avoid duplicative proceedings.” *In re Camall Co.*, 16 F. App’x 403, 408 (6th Cir. 2001) (citing *In Re White Motor Credit*, 761 F.2d 270, 274-75 (6th Cir. 1985)).

Here, this action is duplicative of *Goodykoontz I* as both cases include the same “Motion Notice of Removal” and both cases seek the removal of the same state criminal matters. The Court therefore **DISMISSES** this action as duplicative and frivolous. The Court further certifies that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

Date: August 28, 2023



CHARLES E. FLEMING
UNITED STATES DISTRICT JUDGE